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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 13 November 2002 (S/2002/1251).

The Counter-Terrorism Committee has received the attached third report from Lebanon submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Arabic]

Note verbale dated 31 March 2003 from the Permanent Mission of Lebanon to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Lebanon to the United Nations in New York presents its compliments to the Counter-Terrorism Committee established pursuant to resolution 1373 (2001) and, in reference to letter No. S/AC.40/2002/MS/OC.175 of the Chairman of the Committee, dated 30 October 2002, has the honour to submit herewith a second supplementary report containing the responses of the Lebanese Government to the questions put by the Committee with regard to the supplementary report transmitted by the note verbale dated 21 June 2002 from the Permanent Mission of Lebanon (see S/2002/728).

The Permanent Mission of Lebanon takes this opportunity to convey to the Counter-Terrorism Committee the assurances of its highest consideration.

Enclosure*

The Lebanese Republic
Ministry of Foreign Affairs and Emigrants

Question:

No. 1.2. Effective implementation of paragraph 1 (b) of the resolution requires, in accordance with articles 2 and 4 of the Convention for the Suppression of the Financing of Terrorism that there are provisions in place specifically criminalizing the wilful provision or collection, by any means, directly or indirectly, of funds by the nationals of Lebanon or in its territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. The acts sought to be criminalized are thus capable of being committed without any specific act of terrorism actually occurring or being attempted, either within or outside Lebanon. As Lebanon intends to ratify the Convention for the Suppression of the Financing of Terrorism, is it the intention of Lebanon to include such provisions in its criminal law?

Reference: Paragraph 1 (b) of Security Council resolution 1373 (2001).

Response:

The articles of the Penal Code relating to terrorism provide for the prosecution of any person who is an accomplice in or an accessory to the crime of terrorism or who incites others to or perpetrates the crime of terrorism.

Moreover, in the context of the amendment to the Law on the Combating of Money-laundering, the Administration and Justice Committee decided at its session held approximately two months ago to introduce a provision that considers the deliberate or intentional funding of terrorist acts or such funding by any means an offence punishable by hard labour.

Lastly, this draft amendment to the Law on the Combating of Money-laundering will be put before the Chamber of Deputies at the next plenary session.

It should be mentioned that the Arab Convention on the Suppression of Terrorism, signed at Cairo on 22 April 1998, to which Lebanon became a party pursuant to Law No. 57 of 31 March 1999, criminalizes such acts.

Question:

No. 1.3. If not currently provided in the money-laundering laws or regulations of Lebanon, please provide information on how Lebanon intends to require financial institutions to record originator information on all financial transactions.

Reference: Paragraph 1 of resolution 1373 (2001).

Response:

The banking laws and regulations in effect in Lebanon make it incumbent upon banks and financial institutions operating in Lebanon to record on their books all banking and financial transactions. Law No. 318 of 20 April 2001 on the Combating

* The annexes are on file with the Secretariat and are available for consultation.

of Money-laundering also makes it incumbent upon the institutions subject to its provisions to take measures to make available knowledge of the source of the transactions that they conduct with their clients.

Article 4 of Law No. 318 on the Combating of Money-laundering makes it incumbent upon institutions not subject to banking secrecy, including individual institutions, in particular money-changing offices, financial brokerage companies, leasing companies, mutual funds, insurance companies, companies promoting, building and selling real estate and merchants dealing in valuables (jewellery, precious stones, gold, works of art, antiques) to keep records of transactions with a value in excess of US$ 10,000. They must also, through official documents, verify the identity and address of each client and keep photocopies of these and transaction-related documents for a period of no less than five years.

Article 5 of the above-mentioned law makes it incumbent upon banks, financial institutions and all other institutions subject to the Banking Secrecy Law to monitor their transactions with clients in order to avoid any possible involvement of such institutions in the laundering of funds deriving from the offences specified by this Law, including the terrorist offences, set out in articles 314, 315 and 316 of the Penal Code. The principles of this monitoring are set out in the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering issued by the Bank of Lebanon in Circular No. 83 of 18 May 2001 and the amendments thereto.

Question:

No. 1.4. Effective implementation of paragraph 1 of the resolution requires that the legal obligation to report suspicious transactions for banks and financial institutions should extend to all professions engaged in financial transactions (such as lawyers, accountants) and that they should all be subjected to penalties for non-compliance in order to enable the effective prevention of the financing of terrorism. Could Lebanon please comment on the action that it intends to take in this regard?

Reference: Paragraph 1 of resolution 1373 (2001).

Response:

In accordance with article 11 of the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering issued by the Bank of Lebanon in Circular No. 83 of 18 May 2001, the auditor assigned to monitor the bank or financial institution is required to review internal auditing procedures in order to ascertain compliance by the bank or financial institution with the provisions of the Regulations, and to report immediately to the Governor of the Bank of Lebanon, in his capacity as Chairman of the Special Investigation Commission, any violation of these provisions, especially any transactions suspected of involving the laundering of funds deriving from any of the offences specified in Law No. 318 of 20 April 2001 on the Combating of Money-laundering, if it emerges that the bank or financial institution has omitted to make such a report.

Articles 8 and 18 of Decree No. 1983 of 25 September 1971 relating to the regulation of the profession of bank auditor require that such auditors exercise their powers in accordance with the provisions of the Code of Commerce and the Code of Money and Credit and such written instructions as may be issued by the Bank of

Lebanon or the Banking Control Commission in circulars sent directly to the auditors. The same articles also stipulate that any auditor who fails to fulfil his professional obligations in the discharge of his functions shall be subject to administrative penalties, namely, warning, reprimand or being barred for a specific time from serving as a bank auditor.

The obligation incumbent upon bank auditors to report suspicious transactions and the penalties imposed should they fail in their professional duties applies also to auditors assigned to all other institutions subject to the control of the Bank of Lebanon. The same obligations are imposed upon the auditors assigned to monitor other financial institutions by articles 185 and subsequent articles of the Code of Money and Credit, article 21 of Law No. 160 of 27 December 1999 (regulation of commercial and financial transactions), article 11 of Law No. 234 of 10 June 2000 (regulation of financial brokerage) and article 20 of Circular No. 49 of 5 September 1999 issued by the Bank of Lebanon (mutual funds).

Question:

No. 1.5. Effective implementation of this paragraph also requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources collected by non-profit organizations (e.g., religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for the financing of terrorism. Please explain whether such provisions or measures are in place in Lebanon and, if not, how Lebanon proposes to monitor the use of funds and so on by non-profit organizations.

Reference: Paragraph 1 and, in particular, 1 (d) of resolution 1373 (2001).

Response:

Some elements of the response were mentioned in the first report with regard to the question concerning the manner in which Lebanese laws and regulations prevent the financing of terrorist activities as well as the question on how Lebanese legislation prevents the financing of terrorism as distinct from or independent of money-laundering.

In addition, there are legal and regulatory provisions that aim to monitor the use of funds or other economic resources collected by non-profit organizations (e.g., religious, charitable and cultural organizations) in order to ascertain that they are not being diverted for purposes other than the stated purposes, particularly for the financing of terrorism.

Article 7 of the Law on Associations stipulates that it is incumbent upon associations to keep a record of their income, sources of income and details of the type and amount of expenditures, to be submitted at any time to the Government on request.

Law No. 318 of 20 April 2001 also makes it incumbent upon institutions not subject to the Banking Secrecy Law (article 4) and banking institutions subject to that Law (article 5) to monitor the transactions they conduct with their clients, with a view to avoiding the institution's involvement in suspicious transactions, and to report immediately (article 7) to the Special Investigation Commission established under the Law (article 6) any transactions they suspect of concealing money-laundering, including those for the financing of terrorism. Article 3 of the Regulations on the Monitoring of Financial and Banking Transactions to Combat

Money-laundering states that "client" means any natural or legal person, whether a company, institution of any kind or a non-profit organization or association (such as a trust fund, cooperative, social care establishment, charitable association or club).

The Ministry of Interior and Municipalities, which is concerned with the affairs of political parties and associations in Lebanon, exercises financial control over the activities of parties and associations legally licensed under the provisions of article 7 of the law promulgated by Decree No. 10830 of 9 October 1962, which makes it incumbent upon each licensed association to submit in the first month of every year a list containing the names of its members, a copy of its annual budget and its previous end-of-year account and imposes a financial penalty for each violation or delay in submission of the said documents. This Ministry also exercises administrative control based on the provisions of article 6 of the Law on Associations, which absolutely prohibits the formation of secret associations, makes it incumbent upon each association to inform the department immediately of any change in its statutes, bye-laws, board of administration or headquarters and imposes penalties and fines in cases of non-compliance. In addition to the above, article 335 of the Lebanese Penal Code penalizes anyone who forms an association or enters into a written or verbal agreement with the intent to commit a serious offence against persons or property or to impugn the authority or dignity of the State or challenge its civil, military, financial or economic institutions. Article 373 of the Code provides that an association shall be considered secret if its purpose is incompatible with the law and it carries out all or some of its acts in secret.

Article 316 of the Penal Code penalizes any association established with intent to change the economic or social nature of the State or the fundamental conditions of society and stipulates that such an association shall be dissolved and its members condemned to a term of hard labour. The penalty for founders and directors shall be not less than seven years.

Moreover, the Lebanese security agencies, including the army and the internal security, general security and State security forces, each within its sphere of competence, monitor entities and individuals under suspicion, observe their movements and prevent them from carrying out any acts that disrupt security or contravene the laws in force, establishing groups, recruiting members for secret organizations, collecting funds or providing any support to terrorist acts carried out inside or outside Lebanon. The investigations and procedures carried out by the security forces are conducted on instructions from, and under the supervision of the judicial authority and are based on the provisions of the Code of Military Justice and the Code of Criminal Procedure; specific contraventions lead to revocation of the licence and dissolution of the association.

Non-profit associations are subject to monitoring by the supervisory authorities and, under the laws in force, may have their licences revoked if they use their funds for purposes other than the stated aims of the association, not to mention facing criminal prosecution.

Lastly, the Lebanese Government has recently approved two draft laws and transmitted them to the Chamber of Deputies for adoption and promulgation.

The first amends Law No. 318 of 20 April 2001 by adding to article 1 a provision whereby "funds relating or contributing to the funding of terrorism, terrorist acts or terrorist organizations" are to be deemed illegal.

The second adds to article 315 of the Penal Code a provision imposing the penalty of "a term of hard labour for a period of not less than three years and not exceeding seven years and a fine not less than the equivalent of the amount paid and not greater than three times that amount on every individual who, with intent, directly or indirectly finances or contributes to the financing of terrorism, terrorist acts or terrorist organizations".

Question:

No. 1.6. Please outline the existing or proposed legal provisions that criminalize the use of Lebanese territory for the purpose of financing, planning, facilitating or committing terrorist acts against other States or their citizens. Effective implementation of paragraph 2 (d) and (e) of the resolution requires that such provisions should be incorporated in the penal law of Lebanon.

Reference: Paragraphs 2 (d) and (e) of resolution 1373 (2001).

Response:

We enclose the legal provisions in the Penal Code that relate to crimes of terrorism and to the Arab Convention on the Suppression of Terrorism, signed at Cairo on 22 April 1998, which was approved by Law No. 57 of 31 March 1999 and has become part of Lebanese legislation.

Question:

No. 1.7. According to the supplementary report, Lebanese law is not applicable to a foreign national who, outside Lebanese territory or while aboard a foreign vessel, commits a felony against the security of the State of Lebanon, counterfeits the State seal, forges or counterfeits Lebanese or foreign banknotes or currency in circulation by law or by custom in Lebanon or falsifies passports, entry visas, identity cards or extracts of records, if that foreign national does not act in violation of the rules of international law. Please explain to which rules of international law article 19 of the Lebanese Penal Code refers.

Reference: Paragraph 2 (e) of resolution 1373 (2001).

Response:

Article 19 of the Penal Code states that Lebanese law does not apply to a foreign national who, outside Lebanese territory or while aboard a foreign vessel, commits a felony against the security of the State of Lebanon, counterfeits the State seal, forges or counterfeits Lebanese banknotes or currency in Lebanon or falsifies passports, entry visas, identity cards or extracts of records, if that foreign national does not act in violation of the rules of international law.

The words "rules of international law" in the last phrase of this article refer to the international treaties or agreements by which Lebanon is bound. The felonies referred to in the article in question do not constitute a violation of these treaties or agreements, given that article 2 of the Code of Civil Procedure lays down the principle of the hierarchy of rules, including the precedence of international treaties over internal law.

Question:

No. 1.8. Please provide the CTC with a copy of article 21 of the Lebanese Penal Code.

Reference: Paragraph 2 (e) of resolution 1373 (2001).

Response:

You will find attached the text of the article in question.

Question:

No. 1.9. Effective implementation of paragraph 2 (e) of the resolution requires that States ensure that persons who participate in the financing, planning, preparation or preparation of terrorist acts or support such acts are brought to justice either by submitting the case without undue delay to their respective competent authorities for the purpose of prosecution or by extraditing these persons. This applies without any exception whatsoever and whether or not the offence was committed in their respective territories. Please explain how, in order to comply with paragraph 2 (e), Lebanon would deal with a foreign national who is in Lebanon and has committed a terrorist act outside Lebanon against a State other than Lebanon or against that State's citizens. Is it possible under current or proposed law to prosecute that person in Lebanon if he or she is not extradited?

Reference: Paragraph 2 (e) of resolution 1373 (2001).

Response:

There is no legal provision that currently authorizes the prosecution of a foreign citizen who is in Lebanon and has committed a terrorist act outside Lebanon, since this is outside the framework of extradition or bilateral agreements.

Question:

No. 1.10. What measures are in place to prohibit the black market sale of documentation, in particular identity papers and travel documents? How are such measures, if any, being enforced?

Reference: Paragraph 2 (e) and (g) of resolution 1373 (2001).

Response:

Lebanese law considers that official documentation — in particular identity papers and accompanying documents — is personal and must not be subject to commercial exchange or improperly used or forged.

However, despite the provisions it contains concerning the above, Lebanese law does not make provision for any measures specifically prohibiting commerce in such documents on the black market, given that the Lebanese Penal Code punishes anyone who forges official documents and facilitates the use of forged documents.

The Directorate-General for Public Security of the Lebanese Ministry of the Interior has adopted precise and stringent measures to verify the forgery or sale of any documentation, in particular identity papers and travel documents, and has taken radical measures in this connection with a view to arresting violators, seizing forged documents, handing them over to the competent judicial authorities and pursuing

investigations in order to discover the manner in which the forgery operations were carried out and the techniques used in this connection.

The Directorate-General for Public Security of the Ministry of the Interior and of Municipal and Rural Affairs has, since the beginning of 2003, adopted a new Lebanese passport incorporating advanced techniques and meeting high specifications in order to prevent counterfeiting or the possibility of a Lebanese passport being used by any person other than its rightful holder.

Question:

No. 1.11. According to the supplementary report, Lebanon is bound to apply all the provisions of the relevant international conventions and protocols against terrorism to which it is a party. Please outline the legal provisions that provide for the imposition of penalties for the commission of the offences referred to in these international instruments.

Reference: Paragraph 2, in particular 2 (g) of resolution 1373 (2001).

Response:

Lebanon is committed to implementing all the provisions and articles of the international conventions and protocols against terrorism to which it is a party.

In response to the question, the following information is provided:

The Lebanese Penal Code imposes penalties for the illegal seizure of aircraft and on any person who carries out destructive acts in public places, including airport runways. The penalty is increased for individuals committing crimes against persons acting in an official capacity and enjoying international protection, such as diplomats, and penalties are imposed on anyone who takes hostages as a means of achieving his ends. Lebanon is currently considering amending the Penal Code of 1943 and will take into account all matters relating to the combating of terrorism.

Question:

No. 1.12. When does Lebanon intend to include the offences set forth in the relevant international conventions and protocols relating to terrorism as extraditable offences in the bilateral treaties to which Lebanon is a party?

Reference: Paragraph 3, in particular paragraph 3 (f) of resolution 1373 (2001).

Response:

1. When Lebanon becomes a party to international conventions and the protocols thereto pursuant to the authorization issued by the Chamber of Deputies, these provisions become an integral part of Lebanese legislation, without there being any need to amend it. Where its international commitments are incompatible with its internal legislation, the former take precedence over the latter.

2. The Ministry of Justice takes cognizance of requests for judicial assistance addressed to it by foreign States in extradition cases and studies and implements them according to the relevant rules.

It should be noted that Lebanon committed itself to cooperation with the European Union in combating terrorism when it signed the Association Agreement with the European Union in Luxembourg on 17 June 2002.

Question:

No. 1.13. Paragraph 3 (d) of the resolution requires all States to become parties as soon as possible to all the relevant international conventions and protocols relating to terrorism. The CTC would appreciate receiving information on the progress made regarding the ratification by Lebanon of the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism.

Reference: Paragraph 3 (d) of resolution 1373 (2001).

Response:

In view of the importance of the two conventions in question and their various implications, more than one department must be consulted before the necessary decision is taken. The Lebanese Government is diligently following up this matter.

Question:

No. 1.14. Paragraph 3 (g) of the resolution requests States to ensure "*that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists*". Please clarify how Lebanese legislation meets this requirement.

Reference: Paragraph 3 (g) of resolution 1373 (2001).

Response:

The position of the Lebanese legislator, who has devoted a section to terrorism in the Penal Code, is clearly in favour of more stringent penalties, ranging from hard labour to the death penalty, for the perpetrators of acts of terrorism. Lebanon, which is aware of the requirements laid down in resolution 1373 (2001), is currently amending the Penal Code, taking into account all matters relating to the combating of terrorism, as well as matters contributing to the effective implementation of resolution 1373 (2001).

Note:

It is evident that, in order to ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists in accordance with the provisions of paragraph 3 (g) of resolution 1373 (2001), a uniform international definition of terrorism is necessary. In this context Lebanon has defined its basic position in the introduction to its first report which was transmitted to you on 13 December 2001.